

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE VALVE ANTITRUST LITIGATION

No. 2:21-cv-00563-JCC

**DECLARATION OF BLAKE MARKS-
DIAS IN SUPPORT OF VALVE
CORPORATION’S REPLY IN SUPPORT
OF MOTION TO SEAL**

Blake Marks-Dias states and declares as follows:

1. I am over 18 years of age, I have personal knowledge of the matters stated herein and I am competent to testify to these matters.
2. I am one of the attorneys representing Defendant Valve Corporation (“Valve”), and I make this Declaration in support of Valve Corporation’s Motion to Seal.
3. Valve provided notice to third parties whose confidential information may be disclosed as a result of Plaintiffs’ class certification filing. Several third parties informed Valve that they support Valve’s Motion to Seal. None of the third parties that Valve provided notice to informed Valve that they oppose Valve’s Motion to seal.

1 4. Third-party game developers Hinterland Studio, Inc. and Konami Digital
2 Entertainment Co., Ltd. requested that Valve file sworn declarations in support of Valve's Motion
3 to Seal, due to concern that public disclosure of their sensitive business information would cause
4 them competitive harm. Valve has therefore filed these declarations concurrently with its reply.

5 5. Plaintiffs' Appendix 1 extensively misquotes Valve's positions regarding the Cobb
6 Exhibits and redactions to Class Certification briefing that Valve submitted in Dkt. Nos. 200, 200-
7 2, and 200-5. In Appendix 1, Plaintiffs purport to quote Valve's submissions verbatim but instead
8 repeatedly mischaracterize Valve's detailed and comprehensive positions.

9 6. As one particularly troubling example, **none** of the 30 rows of purported
10 "quotations" to Valve's positions regarding the Joost Rietveld Report, Cobb Ex. 2 (pages 40–52 of
11 Appendix 1), accurately quote from Dkt. No. 200-5, which lays out Valve's position for each
12 redaction to that report. For example, on page 41 of Appendix 1, Plaintiffs "quote" that Valve's
13 position with respect to pg. 27, paragraph 65 of the Joost Rietveld report is "Valve proprietary
14 business information." However, Dkt. 200-5, which Plaintiffs cite for the quotation, actually reads:
15 "Valve's business, decision-making, and/or operations: Highly confidential communications
16 between Valve and the European Commission ("EC") regarding the gaming industry subject to EC
17 confidentiality regulations, which Valve designated as "Highly Confidential – Attorney's Eyes
18 Only" under the Protective Order when produced in discovery." (Dkt. No. 200-5 at 2).

19 7. Beyond those 30 entries, other errors pervade the remainder of Appendix 1.
20 Notably, in numerous places, Plaintiffs misquote Valve's position regarding the class certification
21 brief, misquote Valve's position regarding the exhibits, and incorrectly state which portions of the
22 exhibits Valve seeks to seal.

23 8. In Plaintiffs' Opposition to Valve's Motion to Seal, Plaintiffs informed Valve for
24 the first time that Plaintiffs opposed sealing certain exhibits because portions of those exhibits were
25

1 allegedly publicly available. For most of these exhibits, Plaintiffs did not identify where in the public
2 domain this information purportedly exists. Valve has investigated Plaintiffs' new arguments, and
3 withdraws in part its motion to seal portions of Exhibits 45, 54, and 69. Attached to this declaration
4 is a document labeled "Appendix A," which contains Exhibits 45, 54, and 69 with updated proposed
5 redactions.

6 9. A revised proposed order consistent with these updated redactions is being filed
7 concurrently with Valve's reply.

8 I declare under penalty of perjury under the laws of the United States of America that
9 the foregoing is true and correct.

10 DATED this 5th day of April, 2024 at Seattle, Washington.

11
12 s/ Blake Marks-Dias
Blake Marks-Dias

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2024 I caused the foregoing document to be served via ECF on all counsel of record.

s/ Monica Dawson
Monica Dawson